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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RAQUEL ZAIAT, as Mother and Natural  
Guardian of MINOR, D.Z.,<sup>1</sup>

Plaintiff,

-against-

ELVE LABORDE, M.D., GOOD  
SAMARITAN HOSPITAL, and BON  
SECOURS HEALTH SYSTEM, INC.,

Defendants.

**NOTICE OF REMOVAL**

from the Supreme Court of the  
State of New York, County of Rockland,  
Index No. 034634/2023

Defendant Elve Laborde (“Laborde”), by Damian Williams, United States Attorney for the Southern District of New York, hereby removes the above-captioned action to the United States District Court for the Southern District of New York. The grounds for removal are as follows.

1. Laborde is one of several defendants named in an action filed in the Supreme Court of the State of New York, County of Rockland, Index No. 034634/2023. A copy of the Complaint (“Cmpl.”) is attached hereto as Exhibit A. Laborde is an employee of Ezras Choilim

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<sup>1</sup> The full name of minor D.Z. has been withheld pursuant to Rule 5.2 of the Federal Rules of Civil Procedure.

Health Center (the “Health Center”), an entity which is described in 42 U.S.C. § 233(g)(4) as a public or non-profit private entity receiving federal funds under 42 U.S.C. § 254b.

2. Plaintiff Raquel Zaiat (“Plaintiff”) brings this action as Mother and Natural Guardian of Minor, D.Z. (the “Infant”). Plaintiff alleges that Laborde provided deficient medical care during the labor and delivery of the Infant at defendant Good Samaritan Hospital (“Hospital”) by, *inter alia*, conducting a substandard evaluation of Plaintiff during her hospital stay from May 25 through May 28, 2021, and negligently performing delivery of the Infant on May 26, 2021. *See* Ex. A, Compl. ¶¶ 17-19. As a result, the Infant allegedly suffered a deep laceration to the base of her neck and right shoulder during delivery. *Id.* ¶ 17. The Infant allegedly required immediate stitches which has led to permanent scarring of her right shoulder and the back of her neck. *Id.* Plaintiff further alleges that Defendants, including Laborde, negligently failed to obtain informed consent in connection with the medical care at issue. *Id.* ¶¶ 26-29. Plaintiff seeks unspecified damages that exceed the jurisdictional limits of all lower New York State courts. *Id.* ¶¶ 25, 32.

3. Pursuant to the Public Health Service Act, as amended by the Federally Supported Health Centers Assistance Act of 1992 and 1995, 42 U.S.C. § 201 *et seq.*, during the relevant period, Laborde was deemed to be an employee of the United States Public Health Service for purposes of civil actions seeking damages for personal injury resulting from the performance of medical, surgical, dental, or related functions. *See* 42 U.S.C. § 233(a), (g)-(h); Ex. C, Certification of Damian Williams, United States Attorney for the Southern District of New York, dated September 5, 2024 (the “Williams Certification”).

4. The Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346(b), 2401(b), and 2671-2680, provides the exclusive remedy with respect to Plaintiff’s claims against Laborde. *See* 42 U.S.C. § 233(a).

5. This action may be removed to this Court pursuant to 42 U.S.C. § 233(c) and 28 U.S.C. § 2679(d)(2) because: (i) trial has not yet been had of this action; and (ii) this is a civil action brought against an employee of the United States Public Health Service acting within the scope of her employment. As set forth in the Williams Certification, Laborde, as an employee of the Health Center, is deemed to be an employee of the United States Public Health Service and was acting within the scope of her employment for purposes of Plaintiff’s claims against her.

6. All other defendants who have been properly served are not required to consent to the removal of this case to federal court because Laborde has a statutory right to remove under 42 U.S.C. § 233(c) and 28 U.S.C. § 2679(d)(2).

7. Laborde will promptly file a copy of this Notice of Removal with the Clerk of Court, Supreme Court of the State of New York, County of Rockland.

8. The submission of this Notice of Removal is solely for the special purpose of removing this action to the appropriate federal court and is not a general appearance by Laborde. This Office makes a limited appearance on behalf of Laborde solely for the purpose of removal of this action. This submission does not constitute a waiver of any defense available to Laborde, including any defense under Rule 12 of the Federal Rules of Civil Procedure.

Dated: New York, New York  
September 11, 2024

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